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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,925	10/11/2005	Xingming Zhang	56264/DJB/S1214	6692
23363	7590	05/31/2007		
CHRISTIE, PARKER & HALE, LLP			EXAMINER	
PO BOX 7068			DUNCAN, MARC M	
PASADENA, CA 91109-7068				
			ART UNIT	PAPER NUMBER
			2113	
			MAIL DATE	DELIVERY MODE
			05/31/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/552,925	Applicant(s) ZHANG, XINGMING	
	Examiner Marc Duncan	Art Unit 2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-66, 69-71, 73, 74, 76, 81-84, 86 and 88-90 is/are rejected.
- 7) ☒ Claim(s) 67, 68, 72, 75, 77-80, 85 and 87 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 October 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>10/11/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

Claims 66, 73 and 81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 59, 60, 62-65, 71, 72, 83, 86 and 89 are rejected under 35 U.S.C. 102(e) as being anticipated by Maffezoni (6,901,493).

Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezoni.

Claims 69 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezoni in view of Gupta (2003/0009752).

Claims 76, 81, 82, 84, 88 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezoni in view of Microsoft.

Claims 67, 68, 72, 75, 77-80, 85 and 87 are objected to.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 66, 73 and 81 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 66, lines 3-5, do not appear to make sense grammatically. The section of the lines including "is segregated....user data files;" does not appear to be in proper English. The examiner is unclear as to exactly what applicant intends to claim, but has chosen to examine it to the best of his ability in order to provide a complete examination of the claims. Claim 73 depends from claim 66 and thus contains the same problem as claim 66. Appropriate correction is required.

Claim 81 recites the limitation "the selected software application" in lines 1-2. There is insufficient antecedent basis for this limitation in the claim.

Claim 86 recites the limitation "the secondary operating system" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 59, 60, 62-65, 71, 72, 83, 86 and 89 are rejected under 35 U.S.C. 102(e) as being anticipated by Maffezoni (6,901,493).

Regarding claim 59:

Maffezoni teaches:

A data isolation system for software and data maintenance, back up and recovery for a computer wherein dynamic data files are identified and passed into at least one hidden partition on a hard disk of the computer (col. 2 lines 16-31), the passing being by one or more selected from the group consisting of: copying and redirection (col. 2 lines 16-21);

wherein the at least one hidden partition and its content is neither manageable nor accessible by the computer's operating system (col. 6 lines 1-14, Fig. 3 – hidden partitions are not accessible); and

the dynamic data files in the hidden partition are not accessible by any software application on the computer (col. 6 lines 1-14, Fig. 3 – hidden partitions are not accessible).

Regarding claim 60:

Maffezoni teaches:

wherein the group further includes filtering and access control (col. 2 lines 16-21).

Regarding claim 62:

Maffezoni teaches:

wherein the dynamic data files include the computer's operating environment so that the computer's operating environment can be restored from the dynamic data files in the hidden partition (col. 2 lines 23-31).

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Regarding claim 63:

Maffezoni teaches:

wherein the dynamic data files in the hidden partition include data up to the time of a failure of the computer's system (col. 2 lines 16-31).

Regarding claim 64:

Maffezoni teaches:

wherein compression is used for at least one file of the dynamic data files in the hidden partition (col. 5 lines 33-35).

Regarding claim 65:

Maffezoni teaches:

wherein encryption is used for at least one of the dynamic data files in the hidden partition (col. 5 lines 33-35).

Regarding claim 71:

Maffezoni teaches:

wherein software application and its dynamic data files are copied to the hidden partition as independent modules (col. 2 lines 16-31).

Regarding claim 72:

Maffezoni teaches:

wherein the dynamic data files stored in the hidden partition are protected (entire document – the point of hiding the partition is to protect the files).

Regarding claim 83:

Maffezoni teaches:

A system for providing an external back up for at least one computer to at least one hidden partition of a centralized back up server (col. 2 lines 16-31 and col. 5 lines 12-35), wherein dynamic data files of the at least one computer are identified and passed into the at least one hidden partition on a hard disk of the centralized back up server (col. 5 lines 12-35), the passing being by one or more selected from the group consisting of: copying and redirection (col. 2 lines 16-21).

Regarding claim 86:

Maffezoni teaches:

wherein the secondary operating system is different to a primary operating system of the at least one computer (col. 6 line 50-col. 7 line 24);

back up and recovery being by use one of the primary operating system and the secondary operating system (col. 6 line 50-col. 7 line 24).

Regarding claim 89:

The teachings of Maffezoni are outlined above.

Maffezoni further teaches providing external backup to at least one hidden partition of a centralized backup server (col. 2 lines 16-31 and col. 5 lines 12-35).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 61 is rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezoni.

Regarding claim 61:

The teachings of Maffezoni are outlined above.

Maffezoni does not explicitly teach making automatic backups when data files are accessed and modified.

The examiner takes official notice that it was well known and widely practiced by those of ordinary skill in the art at the time of invention to make automatic updates to backup data when data that is backed up is modified.

It would have been obvious to one of ordinary skill in the art at the time of invention to combine automatic backups with the backup method of Maffezoni.

One of ordinary skill in the art at the time of invention would have been motivated to make the combination because automatic backups allow the backup data to be kept up to date so that data is not lost due to system crashes and so the user doesn't have to start over from the beginning when data is recovered.

Claims 69 and 70 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezoni in view of Gupta (2003/0009752).

Regarding claims 69 and 70:

The teachings of Maffezoni are outlined above.

Maffezoni does not explicitly teach backing up the system environment prior to installing new software or drivers to the system and restoring the operating environment if the installation fails. Maffezoni does, however, teach backing up the system environment and restoring the environment when a failure is encountered.

Gupta teaches backing up the system environment prior to installing new software or drivers to the system and restoring the operating environment if the installation fails (paragraph 0025).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the backup method of Gupta with the backup method of Maffezoni.

One of ordinary skill in the art at the time of invention would have been motivated to make the combination because Gupta teaches that storing the backup information allows for rollback to a known good operating state if the update or installation fails (paragraphs 0020 and 0025).

Claims 76, 81, 82, 84, 88 and 90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maffezoni in view of Microsoft.

Regarding claims 76, 84 and 88:

The teachings of Maffezoni are outlined above.

Maffezoni does not explicitly teach a software security access policy that allows only authorized users to access the computer. Maffezoni does, however, teach remote storage and remote access.

Microsoft teaches a software security access policy that allows only authorized users to access the computer (definition of access privileges).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine the access privileges of Microsoft with the method of Maffezoni.

One of ordinary skill in the art at the time of invention would have been motivated to make the combination because Microsoft teaches that access privileges allow security for a system as well as allowing for privacy of information and resources allocation.

Regarding claim 81:

Maffezoni teaches:

wherein the selected software application and their respective dynamic data files are identified and are located in at least one partition of the primary operating system of the host computer (col. 2 lines 16-31).

Regarding claim 82:

Maffezoni teaches:

wherein the host computer using diagnostic utilities to allow remote technical support by the remote computer (col. 6 line 50-col. 7 line 25 – diagnostics stored in the backup partition, i.e. on the remote partition, are used to perform diagnosis of the host).

Regarding claim 90:

Maffezoni teaches:

The teachings of Maffezoni are outlined above.

Maffezoni further teaches providing external backup to at least one hidden partition of a centralized backup server (col. 2 lines 16-31 and col. 5 lines 12-35).

Allowable Subject Matter

Claims 67, 68, 72, 75, 77-80, 85 and 87 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

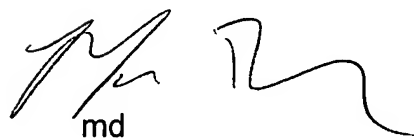
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Duncan whose telephone number is 571-272-3646. The examiner can normally be reached on M-F 9:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on 571-272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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